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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,273	03/05/2001	Mark W. Publicover	5578-58206/RJP	3749

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EXAMINER
DONNELLY, JEROME W

ART UNIT	PAPER NUMBER
3764	

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

AU

Office Action Summary	Application No.	Applicant(s)	
	09/800,273	PUBLICOVER ET AL.	
	Examiner	Art Unit	
	Jerome W. Donnelly	3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 11/28/05

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 65-68, 71 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _____ is/are rejected. 65 and 68-71

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Primary

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 65 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Osborne in view of Vail.

In regard to the claims applicant is reminded that the claims are not limited to a trampoline in its traditional sense.

Osborne discloses a device comprising: a plurality of independent poles (2) attached to a flexible frame member for supporting a mattress/mat, each pole having an end positioned above and an end positioned below a mat. Each of the poles are spaced apart from the other poles; and

An expanse of flexible material that is supported above the rebounding mat by the plurality of independent poles.

Osborne however does not address the height of his poles as being between five and eight feet tall.

Vail teaches a canopy having a height of about six feet. See Vail col. 1, line 40.

In view of the disclosure of about six feet and the known fact that beds are known to stand about two feet off of a floor the examiner notes that to manufacture the poles of Osborne to be between six and eight feet would have been obvious to one of ordinary skill in the art to accommodate the movement of a user, with said bed.

In regard to claim 65 note cover (15) of Osborne.

Claims 71 is rejected under 35 U.S.C. 102(b) as being anticipated by Vail.

If claim 71, is interpreted in it's broadest sense elements (16, 18 and 26) are combined to make-up one pole and elements 12, 14 and 22 are combined to make up a second pole of a plurality of poles. The poles being attached to a frame (74, 76, 78, 80, 82 and 84) and a barrier expanse of flexible material that is supported above a rebounding mat by the plurality of poles.

A trampoline has not positively been claimed in claim 71. If the applicant is not claiming a trampoline the applicant should claim that the poles are attachable to a frame/or legs.

The examiner further notes that element 64 is a mat.

Claims 69 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vail in view of Koenig.

Vail discloses the device of claims 69 and 70 substantially as claimed absent a teaching of providing protective coverings on the post of his device.

Koenig however teaches protective coverings (34) (which are elastic and resilient and flexible).

Given the above teaching the examiner notes that it would have been obvious to one of ordinary skill in the art to provide protective bumbers on the uprights of Vail for the purpose of providing protection to the person occupying his device.

Any inquiry concerning this communication should be directed to Jerome Donnelly at telephone number (571) 272-4975.

Jerome Donnelly

Primary